REMARKS

Reconsideration is requested.

Claims 1-51 are pending. Claims 36-51 have been added. No new matter has been added. Basis for the new claims may be found, for example, in the originally-filed claims.

The Examiner is requested to hold the provisional obviousness-type double patenting rejection of Claims 1-2, 5-6, 9, 13, 16-17 and 20-35 over claims 1, 12, 13, 15, 16, 18, 20-24, 31-36, 38, 40-46 and 48-50 of co-pending application Serial No. 10/304,793, in abeyance until allowable claims are indicated. The applicants note that the cited application has been published as U.S. Patent Application Publication No. US 2003/0124074 A1.

The Section 112, second paragraph, rejection of claims 2-29 based on the recitation of "characterized in that" is traversed. The phrase is a well-known and well-understood phrase in the patent literature. In fact, the Examiner's Supervisor, i.e., Padmanabhan, is listed as Primary Examiner on 33 issued patents where a transition "characterizing" phrase has been issued in at least one claim. A list of the 33 patents from the USPTO web site and a sample of claims from the first seven (7) listed patents are attached as evidence of the well-known and well-recognized use of such phrases. Reconsideration and withdrawal of the Section 112, second paragraph, rejection of claims 2-29, stated in § (i) spanning pages 3-4 of the Office Action dated October 23, 2003 (Paper No. 7) are requested.

The terms objected to in §§ (ii) and (iii) on page 4 of Paper No. 7 have been deleted, to advance prosecution by obviating the Section 112, second paragraph

rejections of claims 3, 4 and 14-15 based on the same. Withdrawal of these aspects of the Section 112, second paragraph, rejection are requested.

The alternative ranges of the claims objected to in §(iv) on pages 4-5 of Paper No. 7 have been made the subject matter of further dependent claims. Withdrawal of the Section 112, second paragraph, rejection of the claims based on the rejections articulated in §(iv) is requested.

Claim 29 has been amended above to advance prosecution by obviating the Section 112, second paragraph, rejection of the same articulated in §(v) on page 5 of Paper No. 7. Withdrawal of the rejection is requested.

Claims 1-11 have been amended to recite an active method step based on the disclosure, for example, at page 3, lines 11-21 of the specification. No new matter has been added. The amendment obviates the Examiner's Section 112, second paragraph, and Section 101 rejections of claims 1-11 and 33-35 stated on page 5 in §(vi) of the Office Action dated October 23, 2003. Withdrawal of the rejections are requested.

Claim 1 and 12 have been amended to clarify some recitations in the dependent claims. No new matter has been added. The basis for the Section 112, second paragraph, rejection stated in §(vii) on page 5 of Paper No. 7 is obviated by the above amendments.

Reconsideration and withdrawal of the Section 112, second paragraph, rejection of claims 1-35 are requested.

The Section 102 rejection of Claims 12-16, 18, 20-29 and 31-32 over Kuentz (U.S. Patent No. 5,711,940), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing remarks.

The subject-matter of the present patent application is the cosmetic use of block ethylenic copolymers of elastic nature, comprising:

(a) at least one rigid block (A) having a glass transition temperature (Tg) of greater than or equal to 20^0C, consisting of units derived from one or more ethylenic monomers, and,

(b) at least one flexible block (B) having a glass transition temperature (Tg) of less than 20^0C, consisting of units derived from one or more ethylenic monomers,

said copolyrners allowing the production of a film having an instantaneous recovery of between 5% and 100%

with the exclusion of block copolyrners having flexible blocks consisting exclusively of ethylene, propylene, butylene, butadiene and/or isoprene units

This patent application also deals with cosmetic compositions comprising, in a physiologically acceptable medium, at least one block ethylenic copolymer of elastic nature as mentioned above.

These block ethylenic copolyrners are preferably obtained by controlled free-radical polymerization.

The cited patent describes a method for preparing a stable microdispersion of particles of acrylic polymers.

A block polymer based on PMMA and PtBuA is used as a stabilizer in the preparation of a microdispersion of particles of acrylic polymer.

Example 7 deals with a three-block copolymer of the PtBuA-b-PMMA -b-PtBuA type. This copolymer does not enter the definition of the block ethylenic copolymes of elastic nature used according to the presently claimed invention, because it is made of

PMMA ($Tg=100^0C$) and PtBuA ($Tg=107^0C$). See, attached. The applicants submit that none of these polymers have a $Tg \leq 20^0C$, as required by the presently claimed invention.

The PtBuA-b-PMMA-b-PtBuA copolymer mentioned in example 7 of the cited document is completely different from PMMA-b-PBuA-b-PMMA copolymer used in the presently claimed invention as a preferred copolymer.

Moreover, the copolymers used in the cosmetic compositions according to the presently claimed invention are defined with two distinct features: the sequence of the block polymers and the instantaneous recovery.

These two features are distinct in that the specification at page 8, lines 6-10, for example, describes that "the value of the instantaneous recovery depends on many factors such as the nature, number, arrangement and relative proportion of the rigid and flexible blocks, or alternatively the molar mass of the polymer".

As far as the cited patent does not mention the process carried out to obtain PMMA-b-PtBuA and PtBuA-b-PMMA-b-PtBuA, it is not possible to determine their instantaneous recovery.

The cosmetic compositions and methods of the presently claimed invention are not taught or suggested by the cited art. Claims 12-16, 18, 20-29 and 31-32 are submitted to be patentable over the cited art. Withdrawal of the Section 102 rejection of the same over Kuentz is requested.

The Section 102 rejection of Claims 12-21, 24, 28 and 29 over Varshney (U.S. Patent No. 5,264,527), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing remarks.

This patent describes triblock copolymers comprising at least one acrylic block and their preparation process comprising a step of anionic polymerization. These copolymers may be used to prepare elastomeric articles.

Example 18, described in column 10, deals with the preparation of triblock polymer of the PMMA-b-PtBuA-b-PMMA type.

This copolymer made of PMMA (Tg=100^{0}C) and PtBuA (Tg = 107^{0}C) does not fall within the definition of the block ethylenic copolymers of elastic nature used according to the presently claimed invention. The claims are patentable over the cited art.

The Examiner has inappropriately read the term "cosmetic" out of the claim apparently because the term is in the "preamble". Such a formalistic approach to construing claims is submitted, with due respect, to be inappropriate. The only use remotely mentioned in the cited patent for the disclosed copolymers is "for the manufacture of elastomeric articles." See, column 1, lines 38-39 of the patent. Moreover, the Examiner has not indicated wherein the cited patent teaches a cosmetic composition of the present claims, which also contain a physiologically acceptable medium.

To establish a *prima facie* case of anticipation, the Examiner must demonstrate that each and every aspect of the claimed invention is provided by a cited reference. The Examiner has not indicated where the cited patent describes the presently claimed cosmetic use and the presently claimed cosmetic compositions. Without such a showing, the Section 102 rejection should be withdrawn.

Withdrawal of the Section 102 rejection of Claims 12-21, 24, 28 and 29 over Varshney (U.S. Patent No. 5,264,527) is requested.

The Section 103 rejection of claim 30 over Kuntz in view of Lang (U.S. Patent No. 4,726,942), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the above as Lang fails to cure the above-noted deficiencies of Kuntz. Withdrawal of the Section 103 rejection of claim 30 is requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested.

The Examiner is requested to contact the undersigned in the event anything further is required.

Respectfully submitted,

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Reference: Polymer Properties

Thermal Transitions of Homopolymers: Glass Transition & Melting Point

Literature values for the glass transition temperature, (T_g), and melting temperature, (T_m), are given in Table I for the more common homopolymers. Polymers are listed by the repeating unit in the polymer chain. These polymers and corresponding monomers are available from Aldrich. Literature values for a given material can vary widely. The values reported in Table I have been taken from various sources and represent the most commonly reported numbers.[1] Several factors can influence the reported values, including molecular weight, molecular weight distribution, tacticity, thermal history, purity, and method of measurement.

Table I: Thermal Transitions of Homopolymers: Glass Transition (T_g) & Melting Point (T_m) Temperatures

Repeating Unit	T_g (°C)	T_m (°C)
Acenaphthylene	214	
Acetaldehyde	-32	165
4-Acetoxystyrene	116	
Acrylamide	165	
Acrylic acid	105	
Acrylonitrile, syndiotactic	125	319
Allyl glycidyl ether	-78	
Benzyl acrylate	6	
Benzyl methacrylate	54	
Bisphenol A-*alt*-epichlorohydrin	100	
Bisphenol A terephthalate	205	
Bisphenol carbonate	174	
Bisphenol F carbonate	147	
Bisphenol Z carbonate	175	
4-Bromostyrene	118	
cis-Butadiene	102	1
trans-Butadiene	-58	148
1-Butene	-24	171
N-*tert*-Butylacrylamide	128	
Butyl acrylate	-54	
sec-Butyl acrylate	-26	
tert-Butyl acrylate	43-107	193
2-*tert*-Butylaminoethyl methacrylate	33	
Butyl glydicyl ether	-79	
Butyl methacrylate	20	
tert-Butyl methacrylate	118	
4-*tert*-Butylstyrene	127	
tert-Butyl vinyl ether	88	250
Butyl vinyl ether	-55	64
ε-Caprolactone	-60	
Cellulose nitrate	53	
Cellulose tripropionate		
cis-Chlorobutadiene	-20	80
trans-Chlorobutadiene	-40	101
2-Chlorostyrene	119	
3-Chlorostyrene	90	
4-Chlorostyrene	110	
Chlorotrifluoroethylene	52	214
2-Cyanoethyl acrylate	4	
Cyclohexyl acrylate	19	
Cyclohexyl methacrylate	92	
Cyclohexyl vinyl ether	81	
2,6-Dichlorostyrene	167	
Diethylaminoethyl methacrylate	20	
N,N-Dimethylacrylamide	89	
Dimethylaminoethyl methacrylate	19	–
2,6-Dimethyl-1,4-phenylene oxide	167	
Dimethylsiloxane	-127	-40
2,4-Dimethylstyrene	112	
2,5-Dimethylstyrene	143	
3,5-Dimethylstyrene	104	
Dodecyl acrylate	-3	
Dodecyl methacrylate	-65	
Dodecyl vinyl ether	-62	
Epibromohydrin	-14	
Epichlorohydrin	-22	
1,2-Epoxybutane	-70	
1,2-Epoxydecane	-70	
1,2-Epoxyoctane	-67	
2-Ethoxyethyl acrylate	-50	
4-Ethoxystyrene	86	
Ethyl acrylate	-24	
Ethyl cellulose	43	
Ethylene, HDPE	-125	130
Ethylene adipate	-46	54
Ethylene-*trans*-1,4-cyclohexyldicarboxylate	18	–
Ethylene isophthatate	51	
Ethylene malonate	-29	
Ethylene 2,6-napthalenedicarboxylate	113	
Ethylene oxide	-66	66
Ethylene terephthalate	72	265
2-Ethylhexyl acrylate	-50	
2-Ethylhexyl methacrylate	-10	
2-Ethylhexyl vinyl ether	-66	
Ethyl methacrylate	65	
Ethyl vinyl ether	-43	86
4-Fluorostyrene	95	
Formaldehyde	-82	181
Hexadecyl acrylate	35	
Hexadecyl methacrylate	15	
Hexyl acrylate	-57	
Hexyl methacrylate	-5	
2-Hydropropyl methacrylate	76	
Hydroquinone-*alt*-epichlorohydrin	60	
2-Hydroxyethyl methacrylate	57	
Indene	85	
Isobornyl acrylate	94	
Isobornyl methacrylate	110	

[1]See catalog numbers Z41,247-3, Z41,255-4, Z22,171-6, Z42,334-3 and Z22,195-3 in the *Book Section*.

Reference: Polymer Properties

Thermal Transitions of Homopolymers: Glass Transition & Melting Point (continued)

Table I: Thermal Transitions of Homopolymers: Glass Transition (T_g) & Melting Point (T_m) Temperatures (continued)

Repeating Unit	T_g (°C)	T_m (°C)
Isobutyl acrylate	-24	
Isobutylene	-73	
Isobutyl methacrylate	53	
Isobutyl vinyl ether	-19	165
cis-Isoprene	-63	28
trans-Isoprene	-66	65
N-Isopropylacrylamide	85-130	
Isopropyl acrylate, isotactic	-11	162
Isopropyl methacrylate	81	
Methacrylic acid	228	
Methacrylic anhydride	159	
Methacrylonitrile	120	
2-Methoxyethyl acrylate	-50	
4-Methoxystyrene	113	
Methyl acrylate	10	
Methyl cellulose		
Methyl glycidyl ether	-62	
Methyl methacrylate, atactic	105,120	
Methyl methacrylate, syndiotactic	115	200
4-Methylpentene	29	250
Methylphenylsiloxane	-86	
Methylstyrene	20	
3-Methylstyrene	97	
4-Methylstyrene	97	
Methyl vinyl ether	-31	144
Nylon 4,6 (tetramethylene adipamide)	43	
Nylon 6 (ε-caprolactam)	52	225
Nylon 6,6 (hexamethylene adipamide)	50	265
Nylon 6,9 (hexamethylene azelamide)	58	
Nylon 6,10 (hexamethylene sebacamide)	50	227
Nylon 6,12 (hexamethylene dodecane-diamide)	46	
Nylon 11 (ω-undecanamide)	42	189
Nylon 12 (ω-dodecanamide)	41	179
1-Octadecene	55	
Octadecyl methacrylate	-100	
1-Octene	-63	
Octyl methacrylate	-20	
Oxy-4,4'-biphenyleneoxy-1,4-phenylenesulfonyl-1,4-phenylene	230	290
Oxy-1,4-phenylenesulfonyl-1,4-phenyleneoxy-1,4-phenyleneisopropylidene-1,4-phenylene	165	190
Oxy-1,4-phenylenesulfonyl-1,4-phenylene ether	214	230
p-Phenylene isophthalamide	225	380
p-Phenylene terephthalamide	345	
Phenylene vinylene	80	380
Phenyl methacrylate	110	
Phenyl vinyl ketone	74	
Potassium acrylate	194	
Propylene, atactic	-13	
Propylene, isotactic	-8	176
Propylene, syndiotactic	-8	
Propylene oxide	-75	66
Propyl vinyl ether	-49	76
Sodium acrylate	230	
Sodium methacrylate	310	
Styrene, atactic	100	
Styrene, isotactic	100	240
Tetrabromobisphenol A carbonate	157	
Tetrafluoroethylene	117	327
Tetrahydrofuran	-84	
Tetramethylene adipate	-118	
Tetramethylene terephthalate	17	232
Thio-1,4-phenylene	97	285
2,2,2-Trifluoroethyl acrylate	-10	
Trimethylene oxide	-78	
Trimethylsilyl methacrylate	68	
2,4,6-Trimethylstyrene	162	
Vinyl acetal	355	82
Vinyl acetate	30	
Vinyl alcohol	85	220
Vinyl benzoate	71	
Vinyl 4-*tert*-butylbenzoate	101	–
Vinyl butyral	322	49
Vinyl carbazole	227	320
Vinyl chloride	81	227
Vinyl cyclohexanoate	76	
Vinylferrocene	189	
Vinyl fluoride	41	200
Vinyl formal	105	
Vinylidene chloride	-18	200
Vinylidene fluoride	-40	171
2-Vinyl naphthalene	151	
Vinyl pivalate	86	
Vinyl propionate	10	
2-Vinylpyridine	104	
4-Vinylpyridine	142	
1-Vinyl-2-pyrrolidone	54	
Vinyl trifluoroacetate	46	

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EXP/Padmanabhan AND ACLM/"characterized in that": 31 patents.
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	PAT. NO.		Title
1	6,627,649	T	Pharmaceutical compositions containing in combination two antagonists selective of arginine-vassopressin V receptors, even of V1 a and V2 receptors
2	6,613,942	T	Glucagon antagonists/inverse agonists
3	6,589,504	T	Compounds and methods for diagnosing and treating amyloid-related conditions
4	6,521,646	T	Dibenzoazulene derivatives for treating thrombosis, osteoporosis, arteriosclerosis
5	6,509,508	T	Process for producing (meth)acrolein and (meth)acrylic acid
6	6,479,708	T	Biphasic catalysis in water/carbon dioxide micellar systems
7	6,476,275	T	Process for the catalytic selective oxidation of a hydrocarbon compound in presence of mesoporous zeolite
8	6,476,259	T	Catalysts for methacrylic acid production and process for producing methacrylic acid
9	6,452,055	T	Method for the catalytic hydroformylation of olefins in a microemulsion
10	6,452,045	T	Process for improving yields in a disproportionation reaction (high yield Henkel)
11	6,448,457	T	Method for hydrogenating carbonyl compounds
12	6,403,843	T	Process for the preparation of 1-(3,4-dimethoxyphenyl)ethanol
13	6,399,818	T	Process for producing unsaturated aldehydes and unsaturated carboxylic acids
14	6,380,262	T	5-membered ring compounds
15	6,369,257	T	Hydroformylation of olefins using supported bis(phosphorus) ligands
16	6,350,916	T	Selective oxidation of alcohols to aldehydes or ketones
17	6,350,910	T	Stereospecific isomerisation of allylamines with the aid of immobilized phosphorated chiral ligands
18	6,320,069	T	Production of optically active ketone
19	6,291,713	T	Process of transferring .alpha., .beta.-unsaturated alkyl groups to electrophiles
20	6,274,771	T	Continuous process for the manufacture of 3,5,5-trimethylcyclohexa-3-en-1-one (B-

isophorone)

21 6,255,296 T Composition and method for treating a patient susceptible to or suffering from a cardiovascular disorder or disease

22 6,225,513 T Process for the production of phenol and acetone from cumene

23 6,222,076 T Process for the preparation of substituted cycloketones

24 6,215,028 T Process for the preparation of cyclohexanones

25 6,191,291 T Substituted cyclopentene derivatives and method for preparing the same

26 6,187,963 T Processes for the manufacture of acrolein derivatives

27 6,177,417 T Cholanic acid ring based 4-(trifluoroacetyl)phenyl derivatives, process for preparation and use thereof

28 6,166,263 T Processes for the manufacture of acrolein

29 6,156,936 T Hydroformylation of olefin feeds containing dienes

30 6,150,145 T Process for the production of degradation products of fatty acids

31 6,127,582 T Hydroformylation process
